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FM AMEMBASSY BISHKEK
TO SECSTATE WASHDC IMMEDIATE 2045
INFO COMUSCENTAF SHAW AFB SC IMMEDIATE
CIA WASHDC IMMEDIATE
DIA WASHDC IMMEDIATE
OSD WASHDC IMMEDIATE
NSC WASHDC IMMEDIATE
SECDEF WASHDC IMMEDIATE
USCENTCOM INTEL CEN MACDILL AFB FL IMMEDIATE

S E C R E T BISHKEK 000297

NSC FOR GENERAL JONES
CENTCOM FOR GENERAL PETRAEUS
OSD FOR SECRETARY GATES
DEPT FOR P - U/S BURNS
DEPT FOR SCA - DAS KROL
C O R R E C T E D C O P Y FOR CLASSIFICATION CHANGE

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TAGS: PGOV PREL MARR MOPS KG
SUBJECT: KYRGYZSTAN: SECOND DAY OF MANAS DISCUSSIONS

REF: BISHKEK 292

Classified By: Ambassador Tatiana C. Gfoeller, Reasons 1.4 (b) and (d).

¶1. (S) On April 3, U.S. and Kyrgyz delegations continued discussions on the presence of U.S. defense personnel in Kyrgyzstan. Foreign Minister Kadyrbek Sarbayev and Minister of Defense Bakytbek Kalyev again represented the government of Kyrgyzstan, with no other Kyrgyz participants present. Ambassador Jackson McDonald led the joint State-DOD delegation. The two sides met twice in plenary session. Between the two full sessions, Ambassador McDonald and Ambassador Gfoeller met with the two Kyrgyz Ministers alone.

¶2. (S) Foreign Minister Sarbayev said that during the 2006 negotiations regarding compensation for access to Manas, the Kyrgyz side had raised a number of issues related to the 2001 framework agreement (i.e., the exchange of diplomatic notes that essentially constituted a status of forces agreement). Sarbayev said the Kyrgyz concerns were not resolved during the 2006 discussions and remain just as important today. He said the Kyrgyz side continued to have concerns over status of personnel, taxation, and jurisdiction. Sarbayev said that these unresolved concerns were why the Kyrgyz Parliament nullified the 2001 agreement. He said the Kyrgyz side was amenable, however, to taking "the bulk" of the 2001 agreement and incorporating it into a new agreement.

¶3. (S) Ambassador McDonald repeated that the U.S. side was willing to conclude a new framework agreement that was the same in substance as the 2001 agreement, either in the form of an exchange of diplomatic notes or as a signed agreement. He reiterated that this framework agreement refers to "other mutually agreed activities" and thus serves to enable all of our military-to-military cooperation with Kyrgyzstan. He again emphasized that the U.S. was not prepared to modify the substantive terms of the framework agreement. He also repeated that the U.S. side was prepared to negotiate the terms of a separate protocol covering the operations at Manas, including compensation. He acknowledged Kyrgyz desire that the protocol be binding on both parties; he proposed to work first to reach agreement on the substance of a non-binding draft protocol and then take the draft text to Washington for authority to make it a binding agreement.

¶4. (S) Sarbayev agreed to focus on the two documents. He said he understood that the protocol would cover financial and other issues related directly to Manas. Sarbayev stated that while financial issues were important to the Kyrgyz side, the "other issues" were just as important, and the Kyrgyz side wanted to address or clarify a number of issues in the framework agreement. Sarbayev then rattled off a long list of substantive issues:

--outer perimeter site security to be provided by the Kyrgyz Ministry of Defense;

--entry and exit procedures, including contractors and contractor personnel;

--status of contractors;

--prohibition on transit or storage of weapons of mass destruction;

--prohibition on the technical means for surveillance and intelligence-gathering;

--payment of claims and reimbursement for damages;

--motor vehicle insurance;

--joint investigation of aircraft crashes and accidents;

--environmental issues;

--payment of air navigation fees; and

--taxation.

¶5. (S) Ambassador McDonald said he was greatly discouraged that the Kyrgyz side wanted to reopen and renegotiate nearly every substantive provision of the 2001 framework agreement. He once again pointed out that the 2001 framework agreement represented the type of agreement that the United States has with numerous other partners. He repeated that the U.S. side had no intention of modifying the substance of the 2001 framework agreement. He also made clear, however, that the U.S. was willing and eager to focus on issues relating specifically to Manas and would do its utmost to address Kyrgyz concerns in the Manas-specific protocol. He warned that if the Kyrgyz side insisted on renegotiating the substantive terms of the 2001 framework agreement, then we would find ourselves obliged to shift the focus of discussions to the orderly withdrawal of U.S. forces from Manas.

¶6. (S) A visibly shaken Sarbayev said the list he had given were issues on which the Kyrgyz side needed clarification. For example, he said, the Kyrgyz side had questions about the tax exemption for contractors and whether Kyrgyz firms who contracted with the base were exempt from Kyrgyz taxes. Ambassador McDonald explained that the provision on taxes applied to goods and services provided to the base, and did not cover the other activities of contracting firms in Kyrgyzstan. Sarbayev then proposed that following a break, Ambassador McDonald and Ambassador Gfoeller meet in small session with the Kyrgyz Ministers.

¶7. (S) The two-on-two session was discouraging. Minister of Defense Kalyev focused on the title of the framework agreement, insisting that he did not want any references to "defense" or "military" in the title. Sarbayev raised the issue of cargo transit, suggesting the agreement should be limited to "non-military" cargo. Kalyev and Sarbayev suggested that the jurisdiction issue could be addressed by the U.S. providing a list of personnel who would be authorized to go off base. Ambassadors McDonald and Gfoeller indicated that the U.S. would be as flexible as possible with regard to the title. They pushed back hard on the idea of limiting Manas to the transit of non-military cargo. They reiterated emphatically that all U.S. defense personnel needed the legal protection throughout the territory of Kyrgyzstan. Ambassadors McDonald and Gfoeller noted that Russian soldiers based in Kyrgyzstan benefit from such privileges and immunities.

¶8. (S) Following a two-hour break, the U.S. side presented two draft documents: (a) a framework agreement substantively mirroring the 2001 framework agreement and covering the

presence of U.S. defense personnel in the Kyrgyz Republic and (b) a draft non-binding protocol of intentions covering operations at Manas. The Kyrgyz side asked for time to review the documents overnight. The two sides agreed to resume discussions on the morning of April 4. Ambassador McDonald emphasized that, by the end of their discussions on April 4, the two sides must have reached substantive agreement on all points.

COMMENT

¶9. (S) The Kyrgyz claim they want a "positive result," but they are doing nothing in practical terms to reach such a result. Their actions do not match their stated intentions. We tabled the two drafts in an effort to get them to focus on substance. Even after we had done so, however, they dodged our efforts to engage in a detailed substantive exchange. To our surprise, they have given no indication as to whether the \$40 million in reimbursement for Manas (part of the February 2 offer) is satisfactory. We had expected a hard push on their part for a greater sum. Such a push has not materialized.

¶10. (S) It is unclear whether the two Kyrgyz ministers were able to report to President Bakiyev and seek his guidance following the first round. While we were guardedly optimistic following the first day of negotiations (reftel), we were disappointed by our interlocutors today, most notably when Foreign Minister Sarbayev sought to reopen most of the substantive provisions of the 2001 framework agreement.

¶11. (S) We remain forward-leaning whenever and wherever possible. We are trying to accommodate the Kyrgyz when they need to save face or assuage public opinion. In accordance with our instructions, however, we have resisted Kyrgyz attempts to renegotiate the terms of the 2001 framework agreement.

¶12. (S) As a forcing function, Ambassador McDonald plans to make a formal request to meet with President Bakiyev tomorrow morning, April 4.

ACTION REQUEST

13 (S) Based on the unanimous recommendation of his interagency delegation, Embassy Bishkek, and the CENTCOM POLAD, Ambassador McDonald requests Washington's authorization to make the determination whether to shift the focus of discussions from negotiating the two agreements to negotiating the terms of an orderly withdrawal. Ambassador McDonald would make such determination based on what the Kyrgyz bring to the table during the last scheduled session of talks tomorrow morning, April 4.

¶14. (S) If Washington opts not to provide the requested authority at this time and the Kyrgyz bring nothing positive to the table on April 4, then Ambassador McDonald proposes to inform the Kyrgyz that, unfortunately, we have not reached agreement and then depart with his team as scheduled on April 5.

GFOELLER